

Analysis of Indigent Defense Services and Alternatives

BUTTE COUNTY, CALIFORNIA

Hughes, Perry & Associates
MANAGEMENT CONSULTANTS

matrix 
consulting group

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INTRODUCTION AND EXECUTIVE SUMMARY

Butte County, retained the services of Hughes, Perry and Associates and the Matrix Consulting Group to conduct a thorough review of its current approach to providing indigent defense services as well as alternatives to that approach. Within this study, the project team analyzed the following specific areas:

- The cost effectiveness of the current approach to providing these services through the private consortium of attorneys.
- The staffing equivalent to providing indigent services in the County.
- How indigent defense cases are managed through the consortium and how the public is served.
- How these services compare organizationally and in terms of resulting costs to other indigent defense programs throughout the State.
- How current indigent defense services in Butte County compare to 'best practices'.
- How the current approach compares to providing these services in house through a staffed public defender program.

To achieve these study objectives, the project team utilized the following approaches:

- Interviewed County Administrative staff about the background and the current program in terms of its service and cost effectiveness. We also discussed alternatives to the current approach.
- Interviewed other criminal justice and court service managers about their interaction with consortium defenders as well as their views regarding alternatives.
- Interviewed consortium executive officers regarding how the current program functions and operates as well as their views about how to improve the service.

- The project team collected data regarding attorney caseloads and costs for current contract attorneys.
- The project team also conducted a comparative survey of how other counties in California provide indigent defense services.
- Throughout this process, the project team met with a project team comprised of County Administrative staff, Court Administrative staff and a representative of the County Bar Association. This group met periodically with the project team to discuss each step in the study process.

The table, which follows, provides a summary of the recommendations contained within this report.

**SUMMARY OF RECOMMENDATIONS IN THE FINAL REPORT
AND IMPLEMENTATION PLAN**

Butte County Analysis of Indigent Defense Services and Alternatives

Chapter / Section	Finding	Recommendation	Priority/ Implementation Time Frame	Fiscal Impact
3.4	The comparative survey of other counties and the consulting teams work for other counties indicates that Butte County has developed a relatively cost-effective approach for delivery of indigent defense services compared to the costs of in-house delivery.	The existing approach for delivery of indigent defense services should be retained. Butte County should continue to deliver indigent defense services through the use of attorneys acting as independent contractors.	High/Immediate	\$0
4.1	There are a number of features of effective contracting for indigent defense that are absent from the present contract.	<ul style="list-style-type: none"> • The contracts should include more specific requirements for professional qualifications of the attorneys providing indigent defense. • The contracts should include provisions requiring ongoing, annual training for the attorneys providing indigent defense. • The role of the review panel and the executive committee should be consolidated into a policy board. • The contracts should include procedures for the supervision and evaluation of the performance of the attorneys. • The contracts should require proof that the attorneys providing indigent defense are utilizing legal secretaries for support. • The County should not include payment for participation in an executive committee by three attorneys providing indigent defense, but should continue a modified role for the executive director. • The standards for provision of indigent defense services within the contract should be expanded. 	High/Immediate	(\$52,940-\$59,140) annually

Chapter / Section	Finding	Recommendation	Priority/ Implementation Time Frame	Fiscal Impact
4.2	The management of the contract for provision of indigent defense services should be improved.	<ul style="list-style-type: none"> The County should add a Contract Manager to assist the County Administrator's Office in managing the contracts for the provision of indigent defense services. The County should develop a case management information system The County should develop a common definition of a case for use by indigent defense attorneys in reporting their caseload in monthly reports. The County should develop caseload guidelines for indigent defense services. The County should develop a written procedure for reporting caseload by attorneys providing indigent defense. 	High/Immediate	\$69,600 annually and \$3,500 in one-time capital outlay
4.3	The cost of investigative services provided for indigent defense attorneys appears high in relation to other counties	The County should assess the extent of investigative resources provided to indigent defense attorneys	High/Medium-Term	(\$132,900 to \$193,900 annually)
4.4	The Butte County Superior Court and the County have split responsibility for funding and contractual management of attorneys providing indigent defense services for W & I 300.	The Butte County Superior Court should assume funding and contractual responsibility for the other two attorneys responsible for W & I 300	High/Immediate	\$0
4.5	Butte County Superior Court is not verifying information regarding eligibility for indigent defense services prior to the provision of representation by an attorney.	The Butte County Superior Court should verify information regarding eligibility for indigent defense services prior to the provision of representation by an attorney.	High/Immediate	\$0

1. PROFILE OF INDIGENT DEFENSE SERVICES

This descriptive profile provides a summary of the current operations, scheduling, workload, etc. of the indigent defense services in Butte County. The information found in this profile represents a summary of the interviews and data collection conducted by the consulting team over the course of the study.

1. ORGANIZATION AND STAFFING OF INDIGENT DEFENSE SERVICES

Over the past 13 years, Butte County has provided indigent defense services through a system of private contracts. Currently, there are contracts or subcontracts with 17 attorneys. This includes one attorney (Attorney “D”) that is a subcontractor to Attorney “C” and one attorney (Attorney “H”) that is a subcontractor to the Butte County Superior Court. These contracts are in effect through June 30, 2003. The 17 attorneys (16.45 FTE’s), and their assignments, are presented in the table below.

Name of Attorney	Full-Time Equivalent	Case Type(s) Assigned
A	1.0	Juvenile Dependency Petitions – Welfare & Institutions Code 300
B	1.0	North County Misdemeanors
C	1.0	Felonies and South County Misdemeanors
D	1.0	Felonies and South County Misdemeanors
E	0.5	Juvenile Delinquency Petitions – Welfare & Institutions Code 602
F	1.0	Felonies and South County Misdemeanors
G	1.0	Felonies and South County Misdemeanors
H	1.0	Juvenile Dependency Petitions – Welfare & Institutions Code 300
I	1.2	Juvenile Dependency Petitions – Welfare & Institutions Code 300 & Conservatorships
J	0.75	Child Support, Mental Health Court (Forest), Misdemeanor Appeals
K	1.0	Felonies and South County Misdemeanors
L	1.0	Felonies and South County Misdemeanors
M	1.0	Juvenile Delinquency Petitions – Welfare & Institutions Code 602
N	1.0	Felonies and South County Misdemeanors
O	1.0	Felonies and South County Misdemeanors
P	1.0	Failure to Provide Child Support, Drug Court (Proposition 36), Domestic Violence Diversion, Misdemeanor Appeals
Q	1.0	North County Misdemeanors

A description of these assignments is presented below.

- Two attorneys are assigned to the misdemeanor court: Attorneys “B” and “Q”. These attorneys handle misdemeanor complaints in the North County (Chico) Municipal Court Judicial District.
- Eight of these attorneys are assigned to the four criminal departments: Attorneys “C”, “D”, “F”, “G”, “K”, “L”, “N”, and “O”. Two attorneys are assigned to each criminal department. These attorneys provide vertical representation of felonies and misdemeanors, and are appointed on a rotating basis. Only three of these attorneys – Attorneys “C”, “G”, and “O” – are qualified to represent capital criminal cases. Attorney “D” is a subcontractor to Attorney “C”.
- Five attorneys are assigned to provide indigent defense services for juvenile filings.
 - One attorney – Attorney “I” – has two contracts with Butte County for the provision of indigent services. One contract provides for representation of indigents for juvenile dependency petitions and court proceedings pursuant to Welfare and Institutions Code Section 300. The second contract provides for representation of indigents for Lanterman-Petris-Short Act and Probate Conservatorship proceedings, writs of habeas corpus pursuant to Welfare and Institutions Code Section 5275, and the mentally retarded pursuant to the Welfare and Institutions Code Section 6500. In essence, Attorney “I” is the equivalent of 1.2 full-time attorneys under the terms of these two contracts.
 - Two attorneys – Attorney “A” and Attorney “H” – provide indigent defense services for juvenile dependency petitions pursuant to Welfare and Institutions Code Section 300. The Butte County Superior Court contracts directly with Attorney “H” for the provision of indigent defense services for juvenile dependency petitions.
 - Two attorneys – Attorney “M” and Attorney “E” - provide indigent defense services for juvenile delinquency petitions pursuant to the Welfare and Institutions Code Section 602. Attorney “E” is a 0.5 full-time equivalent attorney.
- One attorney – Attorney “O” - provides indigent defense services for failure to provide child support, the drug court diversion program (Proposition 36) and the domestic violence diversion program.
- One attorney – Attorney “J” – provides representation for failure to provide child support, the mental health court (FOREST program), and for misdemeanor appeals. Attorney “J” is a 0.75 full-time equivalent attorney.

- Attorney “L” and Attorney Q” will be exchanging the case types each handles in the short term. This exchange is reflected in the previous table.

In essence, the County and the Butte County Superior Court are contracting with 16.45 full-time equivalent attorneys to provide indigent defense services.

There are additional resources allocated to the provision of indigent defense services. These include the following resources.

- Ten investigators, operating as independent contractors under contract with Attorney “C”, provide investigative services. These investigators are each compensated at the sum of \$2,626.49 per month. These investigators are not full-time: each investigator works no more than twenty hours per week although the contract indicates that their payment will be irrespective of the amount of time the investigator spends on services. Each of the eight attorneys assigned to the criminal courts is assigned an investigator. The other two investigators are assigned to the attorneys assigned to misdemeanors and Welfare and Institutions Code Section 602. Total expenses for investigative services amount to \$318,461 in 2002-03 (including encumbrances) and \$337,920 in 2001-02 (including encumbrances). This cost is in addition to those costs incurred by the County for providing indigent defense services.
- Additional expenses are incurred for indigent defense of sexually violent predators. In calendar year 2001, these expenses amounted to \$13,940. In calendar year 2002, these expenses amounted to \$53,064. These expenses include expert testimony, psychological evaluations, legal services, investigators, etc. This cost is in addition to those costs incurred by the County for providing indigent defense services. These costs are reimbursable as SB 90.
- Additional expenses for services such as a psychiatric evaluation, interpreter, lab tests, etc cost \$51,700 in fiscal year 2002-03 and \$94,741 in 2001-02. This cost is in addition to those costs incurred by the County for providing indigent defense services.

Section 23 of the County’s contract with each attorney providing indigent defense services on behalf of Butte County established an Executive Committee and Executive Director to provide coordination and liaison between each of the attorneys, the Butte County Superior Court, a review panel and the County in addressing issues related to their contracts, including attorney quality accountability matters, scheduling and

assignments. Three attorneys are assigned to the Executive Committee: Attorney “A”, Attorney “C”, and Attorney “L”. Attorney “C” acts as the Executive Director.

The specific responsibilities of the Executive Committee include the provision of overall management of the Butte County Indigent Services Consortium including the development of the consortium policies and guidelines for overall management and operation of the consortium, including, but not limited to, attorney assignments, review of attorney performance requirements, attorney accountability and reporting responsibilities.

The specific responsibilities of the Executive Director includes the following:

- Administrator of the consortium and attorneys including supervision of the attorneys to ensure they fulfill their contract responsibilities;
- Serve as the liaison for the consortium and be directly responsible for providing liaison services;
- Be responsible for the review, processing, and submission of requests for extraordinary funds by both the attorneys and investigators;
- Conduct contract negotiations, review of contract compliance and the development of fund raising proposals independently and in coordination with the Courts and the County; and
- Manage and supervise the investigative contracts including the coordination and assignment of investigators and ensuring they fulfill their contract responsibilities.

The next section summarizes the terms and conditions of the contracts of the private attorneys providing indigent defense services in Butte County.

2. STANDARD TERMS AND CONDITIONS OF THE INDIGENT DEFENSE SERVICES CONTRACTS.

The standard terms and conditions of the contracts by the County with the fifteen attorneys (excluding Attorney “D” and Attorney “H” who are subcontractors) providing indigent defense services are summarized in the paragraphs below.

- These are five-year contracts that took effect on July 1, 1998 and are in effect through June 30, 2003.
- The attorneys agree to represent persons whom the Butte County Superior Court has deemed indigent, when appointed to do so by a judge of the court.
- Appointments of the attorney to represent persons deemed indigent by the court are on a rotating basis as scheduled by the Butte County Indigent Defense Services Executive Director.
- The contract precludes the attorneys from developing or maintaining any relationship or partnership or employer-employee relationship with any other attorney contracting with the County to provide indigent defense services.
- The contract also states that it is the intent that through a cooperative effort of each of the contracting attorneys that a comprehensive public defender system will be provided and that all court appearances will be made as required in all the courts in the County.
- The attorneys shall provide personnel ancillary to the furnishing of legal services, office space, and all materials, equipment, facilities, and supplies necessary for the performance of legal services. The attorneys shall maintain a full-time office within Butte County, and make arrangements to have office space available within Chico and Oroville to meet with clients.
- Either party can terminate the contract with each attorney by giving 90 days written notice of termination. The County may terminate the contract at any time for good cause as defined within the contract.
- The attorney’s compensation is set within the contract as a flat monthly payment with provisions for cost of living adjustments.
- In addition to the flat monthly payments, attorneys may be reimbursed for extraordinary cases. Extraordinary cases are defines as those cases that due to the nature of the crimes charged, the complexity of the legal issues involved, the severity of the penalty sought, etc. The County shall pay requests for costs associated with extraordinary cases only after prior authorization. Such costs

include, but are not limited to, necessary expenses directly associated with venue changes such as out-of-town lodging and living expenses, travel and investigative services. Requests for additional compensation associated with extraordinary cases shall be submitted to a three-member committee composed of one member each from the County Administrator's Office, the County Counsels' office, and the Butte County Bar Association. This committee determines whether the case is extraordinary.

- Attorneys shall maintain malpractice insurance in the amount of \$500,000 per claim and \$1,000,000 in the aggregate, \$500,000 combined single limit general liability, and worker's compensation as required by law.
- Attorneys shall maintain all case files and time records in safe storage for at least five years or longer as necessary in view of applicable statute of limitations for potential civil liability.
- The attorneys shall keep proper records to enable the County to establish the cost of representing all categories of persons.
- The contract establishes standards of representation including careful and factual legal investigation, prompt action to protect a clients' legal rights, keeping the client informed, preparing for jury selection, examination of witnesses, submission of instructions, and presentation of argument at trial, knowing and exploring sentencing alternatives, providing advice concerning appeals, not accepting more cases that can be competently handled, not handling a legal matter that the attorney knows or should have known that he is not competent to handle, and maintaining client confidences.
- The attorney acknowledges that the contract with the County shall be their principal business. However, the attorney shall not be prohibited from engaging in a limited private practice providing that it would not cause a conflict of interest wherein the attorney would be unable to represent an indigent on behalf of the County and that would not conflict with the attorney's performance of services on behalf of the County.
- A review panel is established by the terms of the contract to monitor both quality accountability, and contract compliance. The review panel consists of two persons designated by the Judges of the Butte County Superior Court, a person designated by the Butte County Bar Association, a person designated by the attorneys that constitute the Butte County Indigent Defense Services Consortium, the County Counsel, and the County Administrative Officer. The panel was to meet at the request of the Presiding Judge of the Butte County Superior Court.
- The attorneys contracting with the County to provide indigent defense services nominate an Executive Committee and Executive Director to provide coordination and liaison between the attorneys, the Court, the review panel, and the County

has been addressing issues related to their contracts including attorney quality accountability matters, scheduling, and assignments.

In addition, each contract contained exhibits that identified the specific case assignments of each attorney (e.g., juvenile dependency petitions and court proceedings).

3. CONTRACT COSTS FOR THE PROVISION OF INDIGENT DEFENSE SERVICES.

The contracts with these attorneys for the provision of indigent defense services, and the 2002-03 costs associated with these contracts, are provided in the table below.

Attorney	Services Provided	Fiscal Year 2002-03 Cost
Attorney "C"	Subcontract with Attorney "D" for the provision of indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
	Executive Director for the Butte County Indigent Services Consortium	\$38,967.48
	Sub-Total	\$285,762.12
Attorney "C"	Investigative services for the Butte County Indigent Services Consortium	\$315,178.80
Attorney "A"	Juvenile Dependency Petitions – Welfare & Institutions Code 300	\$123,397.32
	Member of the Executive Committee	\$16,236.48
	Sub-Total	\$139,633.80
Attorney "B"	Indigent defense services for North County Misdemeanors	\$123,397.32
"Attorney "H"	Juvenile Dependency Petitions – Welfare & Institutions Code 300	\$123,397.32
Attorney "E" (0.50 FTE)	Juvenile Delinquency Petitions – Welfare & Institutions Code 602	\$61,698.60
Attorney "F"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
Attorney "G"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
Attorney "I" (1.0 full-time equivalent)	Juvenile Dependency Petitions – Welfare & Institutions Code 300	\$123,397.32
Attorney "I" (0.2 full-time equivalent)	Indigent defense services for Lanterman-Petris-Short Act and Probate Conservatorship proceedings, writs of habeas corpus pursuant to Welfare and Institutions Code Section 5275, and the mentally retarded pursuant to the Welfare and Institutions Code Section 6500	\$29,225.64
	Sub-Total	\$152,622.96

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Attorney	Services Provided	Fiscal Year 2002-03 Cost
Attorney "J" (0.75 full-time equivalent)	Indigent defense services for failure to provide child support, the mental health court (FOREST program), and for misdemeanor appeals.	\$92,547.96
Attorney "K"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
Attorney "L"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
	Member of the Executive Committee	\$16,236.48
	Sub-Total	\$139,633.80
Attorney "M"	Juvenile Delinquency Petitions – Welfare & Institutions Code 602	\$123,397.32
Attorney "N"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
Attorney "O"	Indigent defense services for Felonies and South County Misdemeanors	\$123,397.32
Attorney "P"	Failure to Provide Child Support, Drug Court, Domestic Violence, Misdemeanor Appeals	\$123,397.32
Attorney "Q".	Indigent defense services for Misdemeanors	\$123,397.32
TOTAL		\$2,421,051.24

All of these contracts for the provision of indigent defense services are with the County with the exception of Attorney "H". That contract is with the Butte County Superior Court. However, the Butte County Superior Court reimburses Butte County for the contracts with Attorney "A" and Attorney "I" (Juvenile Dependency Petitions – Welfare & Institutions Code 300 only). As will be noted in Chapter IV, it is recommended that the contracts with Attorney "A" and Attorney "I" for Juvenile Dependency Petitions – Welfare & Institutions Code 300 be assumed by the Butte County Superior Court upon expiration of these contracts in June 2003.

Attorney "L" and Attorney "Q" will be exchanging the case types each handles in the short term. This exchange is reflected in the previous table.

4. EXPENDITURES AND REVENUES FOR THE PROVISION OF INDIGENT DEFENSE SERVICES.

The table below presents the actual expenditures and revenues for the provision of indigent defense services from 1998-99 to 2001-02. This table reflects expenditures by the County, not the Butte County Superior Court.

Expenditure	1998-99	1999-00	2000-01	2001-02
Public Defender Contract	\$ 1,571,673	\$ 1,722,780	\$ 1,757,216	\$ 1,913,850
Public Defender Investigation	\$ 275,498	\$ 275,178	\$ 297,343	\$ 327,920
Public Defender Other Expenses	\$ 111,597	\$ 44,038	\$ 84,770	\$ 94,741
Total Expenditures	\$ 1,958,768	\$ 2,041,996	\$ 2,139,329	\$ 2,336,511
Revenue	1998-99	1999-00	2000-01	2001-02
Butte County Reimbursement	\$ 224,200	\$ 325,280	\$ 331,500	\$ 266,151
Indigent Defense Reimbursement	\$ 134,269	\$ 172,163	\$ 187,083	\$ 105,367
Total Revenues	\$ 358,469	\$ 497,443	\$ 518,583	\$ 371,518
Net County Cost	\$ 1,600,299	\$ 1,544,553	\$ 1,620,746	\$ 1,964,993

Important points to note regarding the expenditures and revenues are presented below.

- Total expenditures for indigent defense services have grown by \$377,743 or almost 19% over the past four years. This represents an annual average of 6.4%. Expenditures are increasing somewhat faster than workload (as presented in the following tables). Components of these expenditures include the following:
 - Expenditures for the indigent defense contract have increased by \$342,177 or 21.8% over the past four years or 7.3% annually. This increase has been due, in part, to the addition on indigent defense programs such as the drug court diversion (proposition 36), the mental health court (FOREST), and the like.
 - Expenditures for indigent defense investigation have increased by \$54,422 or over the past four years or 19% or 6.3% annually.
 - Expenditures for other indigent defense services such as psychiatric evaluations, interpreters, lab testing, etc., have decreased by \$16,856 over the past four years or 15%.
- Revenues have grown by \$13,049 over the past four years. Components of these revenues include the following:

- The reimbursement received from the Butte County Superior Court Welfare and Institutions Code Section 300 has increased by \$41,951 over the past four years or 18.7% or 6.2% annually.
- The indigent defense reimbursement declined by \$28,902 or 21.5% over the past four years. This is due, in large measure to the passage of AB 3000 This law, chaptered in 2002, mandated the priority of disbursement of funds by the courts. The lowest priority consisted of reimbursable costs such as indigent defense.
- The net County cost for the provision of indigent defense services has increased by \$364,694 over the past four years or 22.8% or 7.6% annually.

In addition, the Butte County Superior Court provides additional funding for clerical staff support for Attorney “A”, Attorney “H”, and Attorney “I” in the amount of \$68,400 annually. This provides twenty hours of support to each of these staff on a weekly basis.

5. HOURS ALLOCATED BY ATTORNEYS TO INDIGENT DEFENSE SERVICES.

The amount of hours by the sixteen attorneys that contract with the County to provide indigent defense services (or as a subcontractor to Attorney “C”) for calendar year 2002 are presented in the table below and at the top of the next page. These reflect differing case types than those reflected in the first two tables: Attorney “L” and Attorney “Q” will be exchanging the case types each handles in the short term. This exchange is reflected in the previous two tables. It does not include Attorney “H”, since this attorney contracts directly with the Butte County Superior Court.

Name	Role	Activity in Court	Activity out of Court	Total
Attorney “A”	Dependent Children W & I 300	566.0	2,072.5	2,638.5
Attorney “B”	North County Misdemeanors	384.1	1,280.4	1,664.5
Attorney “C”	Felonies and South County Misdemeanors	534.0	1,323.5	1,857.5
Attorney “D”	Felonies and South County Misdemeanors	458.6	1,436.3	1,894.9

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Name	Role	Activity in Court	Activity out of Court	Total
Attorney "E"	Juvenile Delinquency Petitions – Welfare & Institutions Code 602	367.5	790.0	1,157.5
Attorney "F"	Felonies and South County Misdemeanors	591.5	1,019.5	1,611.0
Attorney "G"	Felonies and South County Misdemeanors	638.0	2,268.0	2,906.0
Attorney "I"	Conservatorships	144.0	566.0	710.0
Attorney "I"	Dependent Children W & I 300	852.0	2,045.0	2,897.0
Attorney "J"	Felonies and South County Misdemeanors	251.0	273.0	524.0
Attorney "J"	Mental Health Court (FOREST)	52.5	287.0	339.5
Attorney "J"	Misdemeanor Appeals	8.0	299.5	307.5
Attorney "J"	Child Support Misdemeanor (PC 270)	134.0	401.0	535.0
Attorney "J"	Drug Court	3.0	1.0	4.0
Attorney "K"	Felonies and South County Misdemeanors	610.5	1,298.0	1,908.5
Attorney "L"	North County Misdemeanor	392.0	1,552.8	1,944.8
Attorney "M"	Juvenile Delinquency 602 W & I	466.0	1,561.0	2,027.0
Attorney "N"	Felonies and South County Misdemeanors	556.5	1,365.0	1,921.5
Attorney "O"	Felonies and South County Misdemeanors	441.0	1,171.5	1,612.5
Attorney "P"	Failure to Provide Child Support, Drug Court, Domestic Violence, Misdemeanor Appeals	493.4	2,216.0	2,709.4
Attorney "Q"	Felonies and South County Misdemeanors	854.5	1,418.0	2,272.5
Total		8,798.1	24,645.0	33,443.1

The average hours of activity in court per attorney reported by the sixteen attorneys that contract with the County to provide indigent defense services (or as a subcontractor to Attorney "C") amounted to 549 or 46 per month. This does not include Attorney "H", who is under contract directly with the Butte County Superior Court. The average hours of activity in court ranged from a low of 367 hours for Attorney "E" to a high of 996 hours for Attorney "I". Attorney "E" is a 0.5 full-time equivalent, while Attorney "I" is under contract as a 1.2 full-time equivalent. These hours include calendars, contested hearings, and jury trials.

The average hours of activity out of court per attorney reported by the sixteen attorneys that contract with the County to provide indigent defense services (or as a subcontractor to Attorney "C") amounted to 1,540 hours (or 128 hours per month). This ranged from a low of 790 hours for Attorney "E" to a high of 2,611 hours for Attorney "I".

Attorney “E” is a 0.5 full-time equivalent, while Attorney “I”. is under contract as a 1.2 full-time equivalent. These hours include client conferences, case preparation, research, and other.

The total amount of hours of activity – in court and out of court – ranged from a low of 1,157 hours for Attorney “E” to a high of 3,607 hours for Attorney “I”.

6. TRENDS IN CRIMINAL FILINGS AND INDIGENT DEFENSE WORKLOADS

The data reported by the Criminal Justice Council for the fiscal year 1998-99 through 2000-01 is presented in the table below. This data represents the criminal filings for felonies and Group A, C, and D misdemeanors.

Fiscal Year	Felonies	Group A (Non-Tr Misd)	Group C (DUI / H&R)	Group D (Traffic Misd)	Total
1998-99	1,530	3,082	1,325	832	6,769
1999-00	1,572	3,489	1,422	757	7,240
2000-01	1,548	3,240	1,481	1,114	7,383
% + / (-)	1.18%	5.13%	11.77%	33.89%	9.07%

As the table indicates, there has been an approximate 9% increase in criminal filings over the past three years (excluding Group B misdemeanors). While the number of felony filings has not changed measurably, the number of Group C and D misdemeanor filings increased by more than 10% since fiscal year 1998-99. Indigent defense counsel would represent a small percentage of Group D misdemeanor filings. The definitions of the various groups of misdemeanor filings are provided in the sections below.

- **Group A misdemeanors.** Non-traffic misdemeanor violations of the Penal Code and other state statutes, excluding Fish and Game Code violations and intoxication complaints.
- **Group B misdemeanors.** Non-traffic misdemeanor violations of local city and county ordinances, Fish and Game Code violations, and intoxication complaints.

- **Group C misdemeanors.** Violations of Vehicle Code sections 20002 (hit and run, property damage), 23104 (reckless driving, causing injury), and 23152 (driving under the influence of alcohol or drugs).
- **Group D misdemeanors.** All traffic misdemeanor violations that are not included in Group C. Indigent defense counsel would represent a small percentage of Group D misdemeanor filings.

The table below presents the cases opened and closed in calendar year 2002 as reported by the sixteen attorneys that contracted with the County in 2002 to provide indigent defense services (or as a subcontractor to Attorney “C”). It reflects the case type assignments that existed at that time.

Attorney	Type of Caseload	# of New Cases (appts.)	Cases Closed
Attorney “J”	Child Support, Mental Health Court (Forest), Misdemeanor Appeals	349	114
Attorney “I”	Dependant Children & Conservatorships	674	347
Attorney “A”	Dependant Children W & I 300	229	168
Attorney “P”	Drug Court & Misdemeanor Appeals	733	533
Attorney “C”	Felonies & South County Misdemeanors	801	837
Attorney “D”	Felonies & South County Misdemeanors	391	437
Attorney “F”	Felonies & South County Misdemeanors	554	464
Attorney “G”	Felonies & South County Misdemeanors	746	706
Attorney “K”	Felonies & South County Misdemeanors	659	600
Attorney “N”	Felonies & South County Misdemeanors	359	239
Attorney “O”	Felonies & South County Misdemeanors	269	201
Attorney “Q”	Felonies & South County Misdemeanors	539	459
Attorney “E”	Juvenile	122	108
Attorney “M”	Juvenile Delinquency 602 W & I	741	0
Attorney “B”	North County Misdemeanors	955	870
Attorney “L”	North County Misdemeanors	1,275	570
TOTAL		9,396	6,653

Important points to note concerning the data presented in the table above are presented below.

- The data reported by Attorney “J” includes only the nine months from April 2002 to December 2002. Attorney “J” began as a subcontractor in April 2002.

- The data submitted by Attorney “M” did not include the number of closed cases for any of the twelve months.
- Attorney “H”, who was appointed by the Butte County Superior Court, did not report any data.
- The number of new felony and South County misdemeanor appointments ranged from a low of 269 for Attorney “O” to a high of 801 for Attorney “C”. The number of cases closed ranged from a low of 201 for Attorney “O” to a high of 837 for Attorney “C”.
- The number of new North County misdemeanors for the two attorneys assigned these types of cases ranged from a low of 955 for Attorney “B” to a high of 1,275 for Attorney “L”. The number of cases closed ranged from a low of 570 for Attorney “L” to a high of 870 for Attorney “B”.

The table below presents the cases opened and closed in calendar year 2001 as reported by the fifteen attorneys that contracted with the County in 2001 to provide indigent defense services (or as a subcontractor to Attorney “C”). It reflects the case type assignments that existed at that time.

Attorney	Type of Caseload	# of New Cases (appointments)	Cases Closed
Attorney “I”	Dependant Children & Conservatorships	640	327
Attorney “A”	Dependant Children W & I 300	280	226
Attorney “P”	Drug Court & Misdemeanor Appeals	735	608
Attorney “C”	Felonies & South County Misdemeanors	817	727
Attorney “D”	Felonies & South County Misdemeanors	420	188
Attorney “F”	Felonies & South County Misdemeanors	580	826
Attorney “G”	Felonies & South County Misdemeanors	788	664
Attorney “K”	Felonies & South County Misdemeanors	654	615
Attorney “N”	Felonies & South County Misdemeanors	264	175
Attorney “O”	Felonies & South County Misdemeanors	269	297
Attorney “Q”	Felonies & South County Misdemeanors	712	681
Attorney “E”	Juvenile	314	222
Attorney “M”	Juvenile Delinquency 602 W & I	790	0
Attorney “B”	North County Misdemeanors	817	661
Attorney “L”	North County Misdemeanors	1,638	1,325
Total		9,718	7,542

Important points to note concerning the data presented in the table above are presented below.

- The data reported by Attorney “D” includes the six months from July 2001 to December 2001. Attorney “D” began as a subcontractor in July 2001.
- The data for Attorney “F” was adjusted based upon monthly averages. The data submitted by Attorney “F” included new cases for eleven of twelve months and closed cases for ten of twelve months.
- The data for Attorney “N” was adjusted based upon monthly averages. The data submitted by Attorney “N” included new cases and closed cases for five of twelve months.
- The data submitted by Attorney “M” did not include the number of closed cases for any of the twelve months.
- Attorney “H”, who was appointed by the Butte County Superior Court, reported data for only one month. The data was not reflected in the table above.
- The number of new felony and South County misdemeanor appointments ranged from a low of 264 for Attorney “N” to a high of 817 for Attorney “C”. The number of cases closed ranged from a low of 175 for Attorney “N” to a high of 826 for Attorney “F”.
- The number of new North County misdemeanors for the two attorneys assigned these types of cases ranged from a low of 817 for Attorney “B” to a high of 1,638 for Attorney “L”. The number of cases closed ranged from a low of 661 for Attorney “B” to a high of 1,325 for Attorney “L”.

As the data indicates, there appears to be a wide range in caseload, even for attorneys handling the same type of cases.

7. CASE AGE.

The consulting team reviewed the cases that were calendared for November 6, 2002. Of those cases that were represented by indigent defense counsel, the average case age was 71 days for cases assigned indigent defense services during 2002. The median case age was 33 calendar days. A little more than one-quarter of these cases were more than three months old.

Of those cases that were calendared for November 6, 2002 that were represented by indigent defense counsel and had been assigned during 2002, 15% had been calendared that day for the first time, but 28% were thirteen weeks old or older in terms of the date the defendant was first assigned indigent defense services. The table below presents the age of these cases.

Age of Case (Calendar Days)	Number of Cases	% of Total
0	16	15%
1-28	35	33%
29-56	14	13%
57-84	12	11%
85+	30	28%
	107	100%

This represents the calendar for one day. The calendars for other days would be different in terms of volume and their age.

8. INDIGENT DEFENSE SERVICES FEES AND REVENUE COLLECTION PRACTICES.

On July 1, 2000, the Butte County Superior Court and Butte County adopted a memorandum of understanding regarding how Court fines and fees would be collected.

The memorandum of understanding contained several key elements.

- The Court would be responsible for intake and routine monitoring of all adult criminal cases and the collection of fines, fees, restitution, and other sanctions.
- The Court would be responsible for intake and monitoring of all juvenile infractions and misdemeanor cases including collection of all fines and fees.
- Central Collections would be responsible for intake and monitoring of all juvenile Welfare & Institutions 300 and 602 cases including collection of all fines, restitution, and fees.
- Central Collections would be responsible for management of all delinquent adult and juvenile fees, fines, and sanctions. A delinquent account was defined as an account in which 45 days had elapsed and the debtor had not made contact with and/or payment to the court.

The Court Compliance Division of the Butte County Superior Court is assigned responsibility for determining eligibility for indigent defense services, setting up payment plans, and the collection of fines, fees, and restitution. There are eight staff assigned to the Court Compliance Division: the supervisor, 3 court compliance specialists, and 4 account specialists. Of these 7 line staff, 4 are based in Oroville and 3 in Chico.

The process utilized to determine eligibility and collect fines, fees, and restitution is presented below.

- At the time of arraignment, the court asks the defendant if he or she wishes to be represented by an attorney. If the defendant indicates yes, but also indicates that he or she does not have the funds to pay for one, the court will appoint a public defender. The defendant is then instructed to report to the Court Compliance Division.
- The defendant completes a *Financial Information* form. The staff of the division reviews the form, ask clarifying questions if necessary, and make a determination of eligibility for indigent defense services. The Division does not require proof of income or expenses, nor is this information routinely verified. It will be verified, however, if the information is suspicious.
- If the defendant is eligible for indigent defense services, staff from the Court Compliance Division then instructs the defendant to contact the appropriate attorney to set up an appointment. The supervisor for the Court Compliance Division indicated that defendants are rarely denied indigent defense: approximately 3% to 5% are denied indigent defense counsel.
- After the case is adjudicated, the defendant returns to the Court Compliance Division to set up a payment plan.
- If the defendant is delinquent in their payment plan by 45 days, the case is referred to Central Collections. In 2001-02, the Court Compliance Division referred 95 cases in which the defendant was delinquent on reimbursement for indigent defense representation to Central Collections.

The table below indicates the amount of funds collected by the Court Compliance Division for fiscal year 2001-02. This data is based upon the Court Collections Monthly Fund Balance Report, and does not include any funds collected by Central Collections.

Month	Amount Collected
July-01	\$7,949.16
August-01	\$7,885.40
September-01	\$6,343.37
October-01	\$8,663.71
November-01	\$7,516.68
December-01	\$4,891.00
January-02	\$10,116.33
February-02	\$9,007.26
March-02	\$10,130.28
April-02	\$13,016.59
May-02	\$11,269.00
June-02	\$11,411.18
Total	\$108,199.96

The amount of funds collected represent a little more than 5% of the County's costs of providing indigent defense services in fiscal year 2001-02. This excludes the costs to the Court of funding the attorney for providing indigent defense services for juvenile dependency petitions (Attorney "H") and the costs to the County of W & I 300 representation (Attorney "A" and Attorney "I").

As noted earlier, AB 3000, chaptered in 2002, mandated the priority of disbursement of funds by the courts. The lowest priority consisted of reimbursable costs such as indigent defense.

In addition to the revenue collected by the Superior Court, the Central Collections Division of the Treasurer and Tax Collector's Office collected \$102,161 in fiscal year 2001-02 for the costs incurred by the County for the provision of indigent defense. These represent, primarily, older cases that were the collection responsibility of the Central Collections Division prior to the adoption, on July 1, 2000, of the memorandum of understanding regarding how Court fines and fees would be collected by the Butte County Superior Court and Butte County. The extent of revenue collected by Central

Collections has declined since the adoption of this agreement since their role has changed to one of management of all delinquent adult and juvenile fees, fines, and sanctions. The amount of revenue collected in 2001-02 was 41% less than that collected by the Central Collections Division in 1999-00.

The fee schedule for the provision of indigent defense services is presented in the table below.

Felonies	
Plea and Sentencing	\$400
Preliminary Hearings	\$150
Non-Contested VOP's	\$150
Contested Hearings	\$300
Court Trials - charge per half day	\$300
Court Trials - charge per full day	\$500
Jury Trails - daily charge	\$500
Misdemeanors	
Plea and Sentencing	\$150
Contested Hearings	\$300
Court Trials - charge per half day	\$300
Court Trials - charge per full day	\$500
Jury Trails - daily charge	\$500
Juveniles	
Admit and summary disposition	\$100
Admit and disposition	\$150
Contested Hearings - charge per half day	\$300
Contested Hearings - charge per full day	\$500
Motions, Fitness Hearings - charge per half day	\$300
Motions, Fitness Hearings - charge per full day	\$500
Investigator Fees	
Minimum Reimbursement of \$100 or costs based upon \$25 per hour plus expenses	
Ancillary Expert fees	
The amount of fees authorized by the Court	

2. COMPARATIVE INDIGENT DEFENSE SURVEY

As part of the analysis of the indigent defense system in Butte County, the Matrix Consulting Group conducted a survey of ten other counties in California. This included the following counties:

County	2000 Population	County	2000 Population
Humboldt	126,518	Santa Cruz	255,602
Merced	210,554	Shasta	163,256
Napa	124,279	Solano	394,542
Placer	248,399	Sutter	78,930
San Luis Obispo	246,681	Yolo	168,660

These counties were selected based upon a number of different and distinct criteria including a population that was comparable to Butte County, or their proximity to Butte County, or that the County was known to have utilized 'best practices' in its criminal justice system operations (based upon previous work with these counties by staff of the Matrix Consulting Group). One of the other factors used in the selection of these counties was the different approach utilized to provide for indigent defense services including in-house Public Defender's Office, use of contract attorney's to provide indigent defense services, or a hybrid approach that used a mix of both in-house staff as well as private attorneys

Taken together, these ten counties provide a diverse cross-section by which to compare indigent defense resources, workload, policies and practices to Butte County. The Matrix Consulting Group employed a written survey methodology to determine the indigent defense resources, workload, policies and practices of those selected comparison counties. The Matrix Consulting Group administered the survey during February. The completed surveys were then faxed or e-mailed back to the Matrix

Consulting Group for compilation. The Matrix Consulting Group then contacted these counties to verify the data or resolve issues associated with the data.

The overall response to this survey by these ten counties can be characterized as follows:

- Napa and Sutter counties did not respond to the survey despite repeated contacts with these counties by the Matrix Consulting Group.
- Eight other counties have provided information. The counties that provided a more complete response include Humboldt, Merced, Placer, San Luis Obispo, Santa Cruz, Shasta, Solano, and Yolo.

The Matrix Consulting Group is still collecting and clarifying the responses from these counties. Based on the final collection of survey data, a final summary will be developed and included in the final report.

The sections below present the responses by those eight counties that responded to the survey. In an attachment to this summary can be found an extensive matrix that provides the detailed responses of each county to the survey questions.

1. THE EIGHT COUNTIES UTILIZE DIFFERENT APPROACHES FOR THE PROVISION OF INDIGENT DEFENSE SERVICES.

There were a number of general questions that each county answered. These included questions regarding the approach utilized to provide indigent defense services, filings, caseloads, how eligibility for indigent defense services was determined, etc. The sections below summarize these responses and, where appropriate, include comparisons to Butte County.

(1) The Eight Counties Utilize Different Approaches to the Provision of Indigent Defense Services.

The eight counties utilized three different approaches to the provision of indigent defense services. These approaches are summarized below.

- Humboldt and Solano counties utilize an in-house Public Defender's Office.
- Placer, San Luis Obispo, Santa Cruz and Shasta counties utilize private attorneys to provide indigent defense services.
- Merced and Yolo counties utilize a hybrid approach with an in-house Public Defender's Office, but private attorney's for conflict cases.

Butte County generally utilizes the same approach as Santa Cruz and Shasta counties.

(2) The Indigent Defense Services Workload Varied Among the Eight Counties.

The table below presents the 2000-01 workload for each of these eight counties including felony filings and the reported caseloads. This is based upon filings reported by the Judicial Council of California.

Type of Workload	Butte	Humboldt	Merced	Placer	San Luis Obispo	Santa Cruz	Shasta	Solano	Yolo
FY 2000-01 felony filings	1,548	986	2,941	1,537	1,429	2,002	1,758	3,518	2,694
FY 2000-01 juvenile delinquency filings	1,364	298	766	996	630	824	1,217	1,221	469
FY 2000-01 juvenile dependency filings	479	81	239	335	181	264	271	275	175

Important points to note concerning the data presented in the table are presented below.

- Compared to these eight other counties, Butte County has fewer felony filings with the exception of Placer, Humboldt and San Luis Obispo. This includes fewer filings than Merced and Santa Cruz counties that have comparable population as Butte County.
- On the other hand, Butte County has more juvenile delinquency and juvenile dependency filings than any of these other counties including Solano County, which has almost twice the population as Butte County.
- The indigent defense caseload varies among these eight counties.

The next section summarizes responses relating to how eligibility is determined in the survey counties.

(3) In Each of the Eight Counties, the Court Determines Eligibility for Indigent Defense Services.

The table below presents data concerning the approach to determining eligibility for indigent defense services. As the data indicates, only Yolo County appears to utilize a financially-based approach to determining eligibility.

	Butte	Humboldt	Merced	Placer	San Luis Obispo	Santa Cruz	Shasta	Solano	Yolo
How is eligibility determined	Initial assessment by the Court	Court inquiry	Court assigns all defendants that request indigent defense. Judge determination	Court inquiry	Court inquiry	Judge makes the determination	Judge makes the determination	Judge makes the determination	Initial assessment by Public Defender based upon confirmed financial info.
Who provides intake services	Court	Court	N.A.	Court	Court	Court	Court	Court	Public Defender
What are the eligibility standards	Undefined	Unspecified; not stringent	N.A.	Unspecified	Unspecified- not stringent	Judge's assessment	Unknown	Unknown	Overall financial declaration
What proportion of requests were denied	Estimated at 3% - 5%	Few, if any (probably none)	No denials in 2002	Unknown	None known	Probably none	Unknown but probably few if any	Few, if any	2.50%
Annual cost recovery	\$108,000	Minimal	N.A.	\$80,000	\$125,000	\$327,000	\$115,000	\$320,000	N.A.

As the table indicates, none of the approaches utilized by these eight counties, with the exception of Yolo County, are sophisticated in their approach to determining eligibility for indigent defense services. However, while Yolo County has a more sophisticated approach, it still results in a low proportion of defendants requesting indigent defense services being denied.

The table also indicates that the cost recovery for the provision of indigent defense services is minimal. Santa Cruz County appears to recover slightly more of its costs than Butte County: 5.72% versus 4.3%.

The approach that is being utilized by Butte County is certainly no worse than seven of these eight counties, and, in many aspects, is better than seven of these eight other counties.

(5) The Eight Counties Spend More Per Capita for Indigent Defense Services Than Butte County.

The table, below, presents the total costs for providing indigent defense services. These costs include the cost of the in-house or private attorneys, conflict costs. Outside investigators, expert witness fees, fees associated physicians and psychiatrists. As the table indicates, the costs to Butte County for the provision of indigent defense services are less than these other counties.

	Butte	Humboldt	Merced	Placer	San Luis Obispo	Santa Cruz	Shasta	Solano
Expenditures	\$2,489,451	\$2,646,408	\$4,652,040	\$3,963,267	\$3,998,000	\$5,714,300	\$4,346,657	\$9,700,000
Population	203,171	126,518	210,554	248,399	246,681	255,602	163,256	394,542
Expenditure Per 1,000 Population	\$12,253	\$20,917	\$22,094	\$15,955	\$16,207	\$22,356	\$26,625	\$24,585

As the table indicates, Butte County is spending less both in actual terms and in expenditures per 1,000 capita for indigent defense services. In fact the differences in expenditures per 1,000 capita are significant. Butte County spends anywhere from 23% less to 54% less than these other counties.

It should be noted, however, that some of these counties faced capital trials that impacted these expenditures. These include Placer County, San Luis Obispo County,

and Shasta County. If the expenditures associated with the capital trial(s) were removed from Placer County and San Luis Obispo County, their costs per 1,000 population would be comparable to Butte County or less than Butte County.

(6) Some of the Counties Utilize a Formal Case Management System.

The response by the counties indicates a mixed response regarding the extent of utilization of a formal case management system for indigent defense services. A formal case management system would be defined as the assignment of cases based upon workload, periodic review of cases once assigned, and making decisions regarding how to proceed based upon case progress criteria. Both Solano and Yolo counties utilize a formal case management system. Solano County provides indigent defense services utilizing an in-house Public Defender's Office, while Yolo County uses a hybrid approach that relies on a mix of an in-house Public Defender's Office and private attorneys for conflict cases.

On the other hand, Humboldt and Merced counties do not utilize a formal case management system. Humboldt County provides indigent defense services utilizing an in-house Public Defender's Office, while Merced County uses a hybrid approach that relies on a mix of an in-house Public Defender's Office and private attorneys for conflict cases.

(7) Those Counties That Utilize Private Attorneys for the Provision of Indigent Defense Services Compensate These Attorneys on a Flat Fee Basis.

Four counties that responded to this survey provide indigent defense services through private attorneys: Placer, Santa Cruz, Shasta, and San Luis Obispo. In each instance, these counties compensate these attorneys on a flat annual fee basis.

(8) Those Counties That Utilize Private Attorneys for the Provision of Indigent Defense Services Do Not Build-in Incentives or Sanctions into Their Contracts.

The four counties that provide indigent defense services through private attorneys - Placer, Santa Cruz, Shasta, and San Luis Obispo - do not utilize incentives or sanctions in their contracts with these attorneys. These include incentives or sanctions for cost containment, avoiding trials, case 'dumping', the amount of hours spent on cases, workload caps, the qualifications of contracting attorneys, nor continuous training.

(9) Only One County That Utilizes Private Attorneys for the Provision of Indigent Defense Services Has Developed Guidelines for the Timeliness of Client Contact, and None Have Performance Measures Built into the Contract.

None of the counties indicated that guidelines have been developed for the timeliness of client contact, with the exception of Santa Cruz County. Santa Cruz County requires the private attorney must see in-custody indigent defense clients within two working days of their client being booked, and phone calls must be returned.

None of these counties have built performance measures into their contracts with private attorneys.

Merced, Placer, and San Luis Obispo counties require the submission of monthly statistical reports from the private attorneys, while Santa Cruz and Shasta counties require quarterly reports.

COMPARATIVE INDIGENT DEFENSE SURVEY

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
GENERAL QUESTIONS FOR ALL TO ANSWER					
Type of indigent defense system in your County: <ul style="list-style-type: none"> •Publicly supported department or office •Private defender program •Other or hybrid (please describe) 	PUBLIC (10 Public Defenders/4 county conflict counsel/3 county alternate PD (2 nd level conflict)	HYBRID (13 Public Defender attorneys/ 12 private attorneys contracted as "Conflict" Public Defenders (CPD's)	INFO NOT USABLE (Not responsive to survey questions – provided general '02/03 budget pages only. Pages did not contain data relevant to survey.)	PRIVATE (1 Primary contract, 1 "Conflict" contract. Effective Nov '02, Fam Law/Juvenile handled by 4 add'l private contractors.	PRIVATE (1 Primary contract, 1 "Conflict" contract, 1 Alt. "conflict" contract)
How many felony filings did you have in 2002?	Not Provided	3,725		1,986	1,704
How many misdemeanor filings did you have in 2002 (all classes)?		9,050		4,450	3,571
How many juvenile delinquency petitions did you have last year?		1,475		848	857

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
Total private or public defender caseloads in 2002, if not differentiated OR number of: •Felony •Misdemeanor •Mental Health •Juvenile Delinquency and Dependency •Child Support •Other Civil •Drug Court •Appeals	8,020 (total) 1,319 5,332 413 753 35 Misc: 162 Other: 6 homicides	14,362 (total) 5,085 7,066 215 1,631 130 Other: 235 (criminal)		9500 +/- (total) (Approximation)	8,862 (total) 1,706 6,648 80 250 85 96
How is eligibility determined? •Who provides intake services? •What are eligibility standards? •What number were denied in 2002?	Court inquiry Court Unspecified (not stringent) Few, if any (probably none)	Court assigns all cases that request indigent defense. Judge makes determination - cases assigned to Public Defender or "Conflict Public Defender" (private attorney) as appropriate. No 2002 denials.		Court Inquiry Court Unspecified (primarily by request) Unknown	Court Inquiry Court Unspecified (not stringent) None known

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
What are the total costs of indigent defense in your County?	\$2,646,408 (total)	\$4,652,040 (total)		\$3,963,267 (total) plus expert witness fees reimbursed directly by Court.	\$3,998,000 (total)
•In house of private defense program	\$1,219,306	\$2,047,040			\$ 2,406,469
•Conflict costs	\$ 962,978	\$2,100,000			\$ 736,200
•Other costs:	\$ 464,124 (court-appointed)				\$ 855,331 (not broken down)
Outside investigators		\$ 450,000			
Expert witness fees		\$ 20,000			
Physicians / psychiatrists		\$ 35,000			
Other					
What revenue is derived from your program?	-\$357,000-Prop 172 -\$142,000 – Depend. -\$ 89,000 – State Juvenile funds.	-\$500,811–Prop 172 -\$ 57,477–Court ordered defendant reimbursement		\$1,152,837 (total) (includes \$820,000 fm State re death penalty, and \$255,000 re Family Law and Juvenile)	\$2,006,441 (total) Includes: -\$1.7 mil re homicide -\$180,000 CMC/Atascadero -\$3,441 Court reimbursement
What is the cost recovery rate?	- Minimal Court Recovery				
In your County, how many district attorneys are there (all attorneys handling cases)?	15	23		35	30

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
ANSWER ONLY IF A PUBLIC DEFENDER PROGRAM					
Total Number of Attorneys, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other	3.8 3.2 2.0 0.3 Admin/misc – 0.7	Flexible Assignment: 9.0 2.5 1.5		(N/A – PRIVATE)	(N/A – PRIVATE)
Number of supervising and managing Attorneys. What are titles and number by title?	1 1-Public Defender 9-Ass't P.D.	4 Pub.Def-. (Dept Hd) Ch. Dep – (Fel. Sup) Sup. Dep PD (Misd) Sup. Dep PD (Juv.)			
Number of Investigators, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other	2	2 internal plus private investigators on case-by-case basis for felonies			

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
Number of Support (administrative and paralegal) personnel, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other	5 (Clerical)	1 Office Mgr 3 Clerical 2 P/T extra help			
Do supervising attorneys carry a caseload?	YES	YES			
How are conflict cases handled?	Conflict counsel (County P.D. Office)	Private attorney "Conflict Public Defenders" (CPD's)			
Supervisors are utilizing a formal case management system which involves assigning cases based on workloads, reviewing cases once assigned, and making decisions about how to proceed based on case progress.	NO - Numerical assignment based on Ct. Case # and monitored by P.D.	NO – Nothing so formal.			

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
<p>What are the salary ranges of:</p> <ul style="list-style-type: none"> •Public Defenders •Investigators •Administrative support •Supervisors •Managing attorney 	<p>\$42,000 - \$85,000</p> <p>\$37,000 - \$47,000</p> <p>\$24,000 - \$41,000 (Clerical)</p> <p>\$108,000</p>	<p>\$39,998 - \$ 85,446</p> <p>\$39,229 - \$ 47,694</p> <p>\$25,750 - \$ 31,283</p> <p>\$78,229 - \$ 95,098</p> <p>\$96,013 - \$111,197</p>			
ANSWER ONLY IF PRIVATE DEFENDER / CONTRACTED PROGRAM					
<p>If a private defender program, how are attorney fees determined (please describe)?</p> <p>What is the unit cost per case or other indicator?</p>	(N/A – PUBLIC)	<p>Attorney paid flat fee for routine cases. Complex cases paid on hourly basis</p> <p>Unit cost not computed.</p>		<p>Flat ANNUAL fee (in equal monthly installments) paid to contract firms.</p> <p>Unit cost not computed.</p>	<p>Flat ANNUAL fee (in equal monthly installments) paid to contract firms.</p> <p>Unit cost not computed.</p>
How many attorneys participate in the program?		12 CPD attorneys		22 Primary 5 Conflict	20 Primary 9 Conflict
<p>What is the average compensation of private attorneys on a 'full time equivalent' basis?</p> <p>What is the range of compensation of private attorneys for full time attorneys?</p>		<p>CPD's paid \$6,000 a month by contract</p> <p>Unknown</p>		<p>Unknown</p> <p>\$40,000 - \$72,000</p>	<p>Unknown</p> <p>\$42,000 - \$96,000</p>

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
<p>Are there incentives or sanctions built into the system for:</p> <ul style="list-style-type: none"> •Cost containment •Avoiding trials •Case ‘dumping’ •Hours on cases •Workload caps •Qualifications of contractors •Continuing training 		<p>No formal incentives or sanctions built into system. CPD contract may be terminated if CPD not performing to “court and county expectations” (unspecified).</p>		NO	NO
<p>Are there guidelines relating to client contacts?</p> <p>What are these guidelines?</p>		<p>NO</p> <p>NONE</p>		<p>No formal guidelines, but standard procedure is to contact “in-custody” w/i 48 hours; others contact attorney w/i 2 weeks.</p>	<p>NO</p> <p>NONE</p>

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Humboldt	Merced	Napa	Placer	San Luis Obispo
Are performance measures built into the contract?		NO		NO	NO
If a private defender program, who or what agency manages the contract? What periodic reporting is required of the contractor?		County Executive Officer Monthly statistical reports to CAO		Firms manage own contracts Monthly reports to CAO	Firms manage own contracts Monthly statistical reports to CAO
How are conflict cases handled?	Assigned to County Conflict Counsel, Alt. County PD (2 nd level conflict) or court appointed private attorney (3 rd level)	Judge assigns conflict cases to one of 12 CPD attorneys		Judge assigns directly to private contractor firms	Judge assigns to private conflict attorney firms
Contractor contact:	Jim Steinberg Public Defender (707) 476-1261	Wayne Eisenhart, Public Defender (209) 385-7692, or Angelo Lamas, "Conflict" Contract Administrator (209) 385-7543	Ron Abernathy Chief Dep. Pub Def (707) 253-4442	Len Tauman Public Defender (530) 885-2422, ext 101, or Mark Berg, Attorney (conflict) (530) 823-7700	1) James Maguire (Primary), (805) 541-5715; 2) Barry Schiavo, (805) 541-1123; 3) Jeres Sullivan (830) 543-8869

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
GENERAL QUESTIONS FOR ALL TO ANSWER					
Type of indigent defense system in your County: •Publicly supported department or office •Private defender program •Other or hybrid (please describe)	PRIVATE (1 Primary contract [25 attorneys] and 2 "conflict" contracts [10 attorneys])	PRIVATE 5 private contracts (3 Primary/2 Conflict/ 1 Juvenile)	PUBLIC	(Did not respond)	HYBRID (County Public Defender / private contract for conflict.)
How many felony filings did you have in 2002?	3,396	3,502	Approx. 2,500 new And 3000 post-conviction		Approx 8100 new criminal cases filed 7/1/01 – 6/30/02. No further breakdown available.
How many misdemeanor filings did you have in 2002 (all classes)?	7,255	7,954	8,000		
How many juvenile delinquency petitions did you have last year?	1,382	1,035	2,100		

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
Total private or public defender caseloads in 2002, if not differentiated OR number of: •Felony •Misdemeanor •Mental Health •Juvenile Delinquency and Dependency •Child Support •Other Civil •Drug Court •Appeals	11,704 (total) 3,083 6,859 (see "other Civil") 1,005 (see "other Civil") 757 (incl. in "felony")	('02 stats not avail. '01 statistics follow:) 11,070 (total) 2,977 7,766 327 - - -	13,160 (total) 3,044 8,062 (see "other Civil") 1,304 250 500		9,078 (total) 3,667 3,830 1,581 (No further statistical breakdown available)
How is eligibility determined? •Who provides intake services? •What are eligibility standards? •What number were denied in 2002?	Judge makes determination (job/car/property) Court Judge's assessment Estimated: 0	Court determines eligibility. Court Unknown Unknown (probably few, if any)	Court determines – criteria not clear. Court Unclear Few, if any		Initial assess. by PD (based on conf. fin. declaration) – Court makes final decision. PD and/or Court Overall financial declaration Approx 2.5% (est)

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
What are the total costs of indigent defense in your County?	\$5,714,300 (total)	\$4,346,657 (total) (Projected 2002/03)	\$9,700,000 (total)		\$3,586,000 (total)
•In house of private defense program	\$3,871,700	(No Breakdown)	\$6,200,000 (approx)		\$2,700,000
•Conflict costs	\$1,247,108 (CPD)	(No Breakdown)	\$1,900,000 (approx)		\$ 886,000
•Other costs:	\$595,492 (incl. 4 th party attorneys and those below)	(No Breakdown)	\$1,500,000 budgeted for court-appointed attorneys, etc.		
-Outside investigators		(No Breakdown)			
-Expert witness fees		(No Breakdown)	\$20,000		
-Physicians / psychiatrists		(No Breakdown)	\$80,000		
-Other		(No Breakdown)			
What revenue is derived from your program?	\$327,901	\$1,115,515 (est. '02/03) – includes approx. \$1,000,000 extraordinary one-time rev. from State.	\$250,000 – Pub Def \$ 70,000 - Conflict		\$381,000 (total) (includes \$72,500 defendant reimbursements)
What is the cost recovery rate?	Approx. 5.74%	Recovery rate fluctuates greatly.			
In your County, how many district attorneys are there (all attorneys handling cases)?	30-33	23 – incl. D.A. and Ass't D.A.	60+		34

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
ANSWER ONLY IF A PUBLIC DEFENDER PROGRAM					
Total Number of Attorneys, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other	(N/A – PRIVATE)	(N/A – PRIVATE)	PD + 34 PD attorneys 11 Conflict attorneys 15 PD / 7 Conflict 9 PD / 2 Conflict 4 PD / 2 Conflict 1 PD (Civil)		(Public Defender portion only – remainder in “Private” section) 15.0 PD 3.0 PD 2.5 PD 0.5 PD 1.0 PD
Number of supervising and managing Attorneys. What are titles and number by title?			4 1 PD / 2 Ch. Dep. PD 1 Conflict Dep. (rank same as Ch. Dep.)		6 (PD only) 1 Pub. Defender 1 Ch. Ass’t PD 4 Supervising PD’s
Number of Investigators, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other			6 Investigators		4 Investigators

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
Number of Support (administrative and paralegal) personnel, if not differentiated OR number dedicated to: •Felony •Misdemeanor •Juvenile •Mental Health •Appeals •Other			14 Admin/Clerical		6 (total) 2 1 1 - - 1 Off Admin / 1 Drug
Do supervising attorneys carry a caseload?			YES – all but the Public Defender		YES
How are conflict cases handled?			Assigned to Conflict PD (private attorney if add'l conflict exists)		Private contact Attn'y (4-fel; 2-Juv; 1-Misd)
Supervisors are utilizing a formal case management system which involves assigning cases based on workloads, reviewing cases once assigned, and making decisions about how to proceed based on case progress criteria.			YES		YES

BUTTE COUNTY, CALIFORNIA
Analysis of Indigent Defense Services and Alternatives

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
What are the salary ranges of: •Public Defenders •Investigators •Administrative support •Supervisors •Managing attorney			\$ 40,000 - \$110,000 \$ 45,000 \$ 35,000 (legal Sec'y) \$120,000 \$128,000 plus (unspecified Mgmt Incentive Program)		\$ 38,000 - \$107,000 \$ 35,000 - \$ 75,000 (\$25K-\$33K -- Sec'y) (\$ 60K -- Off Admin) Not specified Not specified
ANSWER ONLY IF PRIVATE DEFENDER/CONTRACTED PROGRAM					
If a private defender program, how are attorney fees determined (please describe)? What is the unit cost per case or other indicator?	Flat ANNUAL fee (paid in 12 equal monthly installments). Add'l fee via Court petition for Capital Murder cases (rare). Unknown (varies)	Flat ANNUAL fee: Misd/Fel: \$218,160 Misd/Fel: \$218,160 Conflict: \$373,320 Conflict: \$307,380 Juvenile: \$207,120 Unknown (varies)	(N/A – PUBLIC)	(N/A – NO RESPONSE)	Flat ANNUAL fee contracts – death penalty case fees negotiated separately with County Unknown - varies
How many attorneys participate in the program?	25 Primary 10 Conflict	12			7
What is the average compensation of private attorneys on a 'full time equivalent' basis?	\$50,000-\$115,000	Not Available			Approx \$6,000 per month
What is the range of compensation of private attorneys for full time attorneys?	\$72,000-\$74,000	Not Available			

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
<p>Are there incentives or sanctions built into the system for:</p> <ul style="list-style-type: none"> •Cost containment •Avoiding trials •Case ‘dumping’ •Hours on cases •Workload caps •Qualifications of contractors •Continuing training 	<p>NO</p> <p>Litigation is encouraged</p> <p>Hire quality attorneys /encourage litigation</p> <p>NO</p> <p>Workload “monitored” by contract firms</p> <p>Determined by contract firms</p> <p>Primary firm offers \$350/Yr for relevant continuing education</p>	<p>NO (Don’t get in trouble with the County or you’ll lose your contract).</p>			<p>YES</p> <p>Work against flat fee</p> <p>NO (illegal)</p> <p>NO (unethical)</p> <p>NO (flat fee)</p> <p>NO</p> <p>YES</p> <p>NO</p>
<p>Are there guidelines relating to client contacts?</p> <p>What are these guidelines?</p>	<p>YES</p> <p>In-custody must be seen w/i 48 hrs. – Phone calls must be returned</p>	<p>NO</p> <p>-</p>			<p>State Bar rules followed</p>

Practice Area	Santa Cruz	Shasta	Solano	Sutter	Yolo
Are performance measures built into the contract?	Cover all courts and take all appointments	NO			NO
If a private defender program, who or what agency manages the contract?	CAO's Office	CAO's Office			Unknown
What periodic reporting is required of the contractor?	Quarterly Reports	Quarterly Reports			Unknown
How are conflict cases handled?	2 alternate law firms (minimum of 5 attorneys each)	2 "conflict" contracts. Others assigned from local bar as needed.			Court assigns to contracted private conflict attorney
Contractor contact:	Cheri Eide, Office Mgr of primary firm. (831) 429-1311	Elaine Kavanaugh County Budget Officer. (530) 225-5550	Marvin A. Brookner Director, Public Defender Office (707) 421-6710	Mark Van den Heuvel Public Defender (530) 822-7355	Barry Melton Public Defender (530) 666-8165

3. ANALYSIS OF AN IN-HOUSE PUBLIC DEFENDER PROGRAM

The chapter, which follows, provides an analysis of how an in house public defender program could be structured and what it would cost. This analysis is used here to provide the County with an evaluation of the comparative cost effectiveness of in house indigent defense services with existing services provided through the private consortium of attorneys.

1. ASSUMPTIONS AND ANALYSIS OF STAFFING NEEDS AND COSTS OF AN IN HOUSE PUBLIC DEFENDER PROGRAM.

The project team developed a variety of assumptions to structure and evaluate an in house public defender program for Butte County. These assumption areas included:

- The number of attorneys, investigators and support staff which would be required.
- The cost of operating an in house program, including personnel costs, operating costs and start up costs.
- How conflict cases would be handled in an alternative approach to providing indigent defense services.

Specific assumptions which the project team developed in this analysis are described in the following points:

- As the previous chapter demonstrates, the project team conducted a comparative survey of other counties in California – comparably sized counties, other counties in the northern Sacramento Valley and other counties with well managed indigent defense programs. This survey was developed to develop assumptions regarding:
 - The number of attorneys required as a proportion of case filings and as a proportion of district attorneys.

- The number of investigators required as a proportion of attorneys.
 - The number of support personnel required as a proportion of attorneys.
 - Operating costs.
 - Approaches for compensating attorneys and other staff.
- The number of public defense attorneys in a Butte County program were estimated as shown in the table, below (drawing comparisons from counties which have an in house program). Both the Public Defender versus District Attorney and felony filing per defender ratios result in about 14 Public Defenders required in Butte County. This compares to actual private defender staffing of about 16, at present.

County	District Attorneys	Public Defenders	PD / DA Percent	Felony / Misd. Filings	Total Filings Per PD
Humboldt	15	10	67%	6,027	603
Merced	23	13	57%	16,955	1,304
Solano	60	34	57%	16,141	475
Yolo	34	22	65%	11,569	526
AVERAGE			60%		642
BUTTE	24	14		8,250	13

- The number of public defender investigators and support staff in a Butte County program were estimated as follows:

County	Attorneys	Investigators	Admin.	Inv/Atty	Admin/Atty
Humboldt	11	2	5	.18	.45
Merced	16	2	5.5	.13	.34
Solano	34	6	14	.18	.41
Yolo	27	4	5	.15	.19
AVERAGE				.16	.34
BUTTE				2	5

- Staffing costs for an in house public defender program were estimated as follows:

- Public Defenders would be compensated at a level equivalent to that of District Attorneys (I's – IV's). District Attorney projected salaries for FY 2003-2004 were utilized, with the projected 2.5% increase.
- Fringe benefit costs were estimated utilizing Butte County's projected cost work up for FY 2003-2004.
- We assumed that the Chief Public Defender would be paid \$118,000 per year (about 103% of the compensation of the District Attorney).
- Investigators were assumed to be compensated commensurate with District Attorney investigators (average of projected Investigator I/II's without a 2.5% increase).
- Administrative staff were assumed to be compensated at an average of the salary range of (1) Paralegal, (2) Legal Secretary, and Office Assistant III, with a 2.5% increase.

These assumptions would lead to the following salary ranges and fringe benefit costs:

Position	Average Salary
Chief Public Defender	\$118,000
Public Defender	\$72,750
Investigator	\$50,782
Administrative Analyst	\$42,096
Paralegal	33,708
Office Assistant III	24,804
Fringe Benefit Estimated %	
• Attorneys	35%
• Investigators	35%
• Administrative	25%

- Operating costs for an in house public defender program were estimated as follows:
 - Supplies and materials budgets for a public defender were assumed to be equivalent to that of a district attorney. This cost was developed by examining the Butte County District Attorney's budget and converting this cost to a per DA basis. This factor was applied to an in house public defender program.

- Other outside costs (e.g., physical / psychological / other tests, interpreters and expert witnesses) were assumed to be comparable to current costs of the private program in Butte County and to that currently incurred by the District Attorney.
- The cost of handling conflict cases were assumed, as follows:
 - The survey was examined to determine the cost of conflict cases as a proportion of total costs.
 - This ratio was applied to Butte County.
- It was assumed that there is insufficient space for an in house public defender program in any existing space in Butte County. As a result, office space would have to be rented. At a gross per employee ratio of 250 square feet per employee, about 5,250 square feet would be required. With office rental costs of \$1.00 per square foot per month for individual offices, the cost of rental space would be about \$63,000 per year.

The table, below, provides a summary of these estimated operating costs.

Cost Category	Number	Unit Cost	Total Cost
PERSONAL SERVICES COSTS			
Public Defenders			
• Public Defender	1	\$118,000	\$118,000
• Deputy Public Defender	13	72,750	945,750
Investigators	2	50,782	101,564
Administrative Staff	5	27,994	139,968
Fringe Benefit Costs		35% / 25%	442,852
TOTAL PERSONNEL COSTS	21		\$1,748,134
OPERATING COSTS			
• Supplies and Services		\$13,947	\$292,887
• Office rent	21*250	\$1.00 / s.f.	\$63,000
INTERNAL OPERATING COSTS			\$2,104,021
CONFLICT CASE COST		28% of IH	\$589,126
INDIGENT DEFENSE COSTS			\$2,693,147

The table, above, shows that annual costs associated from the program would be approximately \$2.7 million, almost \$300,000 greater than current costs. Clearly, the

cost of conflict cases has a significant impact on an in house program – a factor that is lessened though the current approach.

2. TRANSITIONAL AND START-UP COSTS.

There would have to be a transitional period to start-up a new public defender program in Butte County. Time would be needed to handle staff recruitment and selection, development of internal systems (e.g., policies and procedures), management systems as well as space, equipment, etc. For purposes of this analysis, the project team estimated that this would take about ten (10) months, as demonstrated in the table, below:

Transitional Requirements for an In House Public Defender Program

Transitional Requirement	Staff Required	Length of Time
Form transitional team	Deputy County Administrator, County Attorney, District Attorney, Human Resources and Auditor-Controller act as leads for implementation.	One month
Recruit Chief Public Defender – including background investigations, interviews, and hiring.	A professional recruiting firm could be engaged.	Four months
Develop, write and prepare policies, procedures and operating directives. This includes manuals, forms and preparation and training.	Public Defender with the assistance of a policy writer.	Three months.
Acquire space and office furniture and equipment.	Public Defender with the assistance of appropriate County 'general services' staff.	2 months.
Implement accounting and payroll system; assist with space and materials acquisition; acquire liability insurance; develop budget; develop financial controls and procedures for transition team; arrange for contracts.	Deputy County Administrator, Auditor-Controller and Public Defender.	Three months (beginning after the first month of policies and procedures development).

Transitional Requirement	Staff Required	Length of Time
Recruit and hire Deputy Public Defenders, Investigators and remaining administrative staff.	County Human Resources, Assistant County Administrator and Public Defender.	Two months (beginning after development of policies).
Plan for one week pre-start up orientation. Training in new policies and procedures; internal and external services and systems.	Managed by the Public Defender and assisted by other County staff.	Assume one week orientation beginning after recruitment.
Begin transfer of new cases. Consortium handles cases until closed because transfer to new staff would be difficult.	Provision to compensate consortium staff for closing out cases.	3 - 6 months.

During this transitional period, costs would overlap with the ongoing consortium efforts. In fact, because of the difficulty in transitioning active cases to new defenders, the consortium would continue to handle already assigned cases. This may add another 3 – 6 months beyond the transfer of new cases to in house public defender staff.

As a result, the following table provides an estimate of the transitional and start-up costs associated with creating an in house public defender program in Butte County:

Transitional / Start-Up Item	Estimated Cost
Transition staffing – Chief Public Defender and one administrative position @ 10 months.	\$151,910
Chief Public Defender, Deputy Public Defenders, Investigative and administrative staff orientation and gradual start-up of new case assumption @ 1 month.	145,680
Outside assistance in developing in house policies and procedures, as well as a recruitment consultant.	25,000
Furniture and equipment @ \$1,500 per defender, \$1,000 per investigator and administrative staff, plus general office @ \$15 per square feet (assumes individual offices)	106,750

Transitional / Start-Up Item	Estimated Cost
Information systems @ \$3,000 per staff position.	63,000
Additional consortium time needed to clear old cases @ 3 months (on a case pro-rated basis)	605,263
TOTAL START-UP AND TRANSITIONAL COSTS	\$1,097,603

Clearly, the need to overlap existing indigent services with the new in house program presents a significant impediment to initiation. Principal among these significant costs is the need to have the consortium 'clear out' old cases while new public defenders pick up new cases. During this transitional period, both new and old public defenders would be underutilized. As a result, this would be a costly period. While new public defenders would be a fixed cost, consortium defenders could be compensated on a pro-rated basis.

There would be another significant hurdle to overcome in this transition. The ability of the County to implement this program would be heavily dependent on its ability to recruit and retain attorneys and investigators of sufficient quality. This is particularly critical at the initial start-up, during which time 15 staff would need to be hired.

3. POTENTIAL REVENUE GENERATION.

Finally, there would be revenue generated from an in house public defender program as there currently is in the private program. The table, below, provides the partial results of the comparative survey on this point.

County	Recovery %	Costs Recovered
Humboldt	5%	\$142,000
Merced	1%	\$57,477
Placer	2%	\$77,837
San Luis Obispo	3%	\$123,000
Santa Cruz	6%	\$327,901
Shasta	3%	\$115,515
Solano	5%	\$320,000
Yolo	2%	\$72,500
BUTTE COUNTY	5%	\$108,200

The table shows that most of the counties for which the project team has information have low cost recovery rates. Among low cost recovery rates, Butte County is currently among the highest at about 5%. Most other surveyed counties average less than 4%.

4. AS A RESULT OF THIS FEASIBILITY ANALYSIS IT APPEARS THAT BUTTE COUNTY SHOULD RETAIN ITS UNIQUE APPROACH TO PROVIDING INDIGENT DEFENSE SERVICES.

As the comparative survey and the project team's work in other jurisdictions has shown, Butte County has developed a unique approach to providing indigent defense services. The consortium approach has resulted in a relatively cost effective program compared to the alternative of bringing these services in house. The project team's analysis has shown that:

- The operating costs of an in house program would exceed the operating costs of the current system by about \$300,000 per year.
- Private and public defender programs are not appreciably different in terms of cost recovery. While all counties are relatively low in terms of cost recovery Butte County is currently relatively high.

- The costs of an in house program are principally impacted by the following:
 - The costs associated with handling conflict cases outside of the organization. This approach approximately doubles the cost of handling cases compared to the existing approach of handling these cases within the consortium.
 - Higher administrative costs (including both administrative staff, rent and other operating costs) compared to the current approach.
- These incrementally higher costs more than offset the lower costs associated with public versus private attorneys.
- On a transitional and start-up basis, the costs are significant – up to \$1.1 million. This is principally due to:
 - The need to continue to utilize the consortium on a diminishing basis almost 1.5 years after the decision would be made to create an in house program.
 - The need to begin to plan for operations about 10 months before a case is assigned to new defenders.
 - The need to acquire private office space and equip it.

While the project team's analysis has supported continuation of the current approach to acquiring indigent defense services, there are several conclusions reached and recommendations to make regarding these services. The next chapter of the report provides this analysis.

4. OPPORTUNITIES TO IMPROVE HOW INDIGENT DEFENSE SERVICES ARE MANAGED

In this Chapter the project team makes a number of recommendations to change the way in which the County contracts for indigent defense services and manages the delivery of these services to the public.

1. A NUMBER OF REVISIONS SHOULD BE MADE TO THE TO THE EXISTING CONTRACT

A number of approaches are recommended to improve the management of the existing contract with the indigent services consortium. The characteristics of an effective and ineffective contract approach are presented in the table below.

Ineffective Contract Approach	Effective Contract Approach
Place cost containment before quality	Limitations on the practice of law outside the contracts
Create incentives to plead cases out early rather than go to trial	Guidelines on client contact and notification of appointment
Fewer lawyers with fewer qualifications and less training doing a greater percentage of the work	Minimum attorney qualifications
Offer limited training, supervision, or continuing education to new attorneys or managers	Workload and caseload guidelines
Reward low bids rather than realistic bids	Provision for support costs such as paralegals, investigators, and social workers.
Provide unrealistic caseload guidelines or no guidelines at all	Independent oversight and monitoring
Do not provide support staff or investigative or expert services	Case management and tracking requirements and systems
Do not provide for independent monitoring or evaluation outside of costs	
Do not include a case tracking or case management system and do not incorporate a strategy for case weighting	

Many of the features of the existing contract with the indigent services consortium met the requirements for effective contracts. These include features such as the following:

- The contract provides for support costs including investigators and clerical support.
- The contract provides for independent oversight and monitoring through a review panel (although the mechanism has not been utilized).
- The contract provides for the quality of representation of indigent defendants. This conclusion is based upon interviews with all of departments and agencies that participate in the criminal justice process including the Butte County Superior Court, the Probation Department, the Sheriff's Office, and the District Attorney's Office. In addition, the contracts with the attorneys providing indigent defense contain specific standards for the quality of defense.
- The contract provides that the contract shall be the principal and priority business of the attorney.
- The contract provides for an executive committee, consisting of three attorneys under contract with the Butte County to provide indigent defense services. The role of the executive committee is defined as providing coordination between attorneys, the Court, the review panel, and the County in addressing issues related to the contracts, including attorney quality accountability matters, scheduling, and assignments.
- The contract includes language regarding caseload and work levels.

On the other hand, there are a number of features that are absent from the contract that reduce its effectiveness. These include the following features:

(1) The Contracts Should Include More Specific Requirements for Professional Qualifications of the Attorneys Providing Indigent Defense.

These qualifications should specify different minimum qualifications for each category of cases for which the Butte County Indigent Defense Services provides representation. For example, some of the suggested qualifications of the National Legal Aid and Defender Association (NLADA) include the following qualifications:

- "Every Agency attorney shall satisfy the minimum requirements for practicing law in [state] as determined by the [state] Supreme Court. Seven hours of [each year's required or (where CLE is not otherwise required) yearly] continuing legal education credits shall be in spent in courses relating to criminal law practice or other areas of law in which the Agency provides legal services to eligible clients

under the terms of this Contract. The Agency will maintain for inspection on its premises records of compliance with this provision.”

- “Each Agency attorney representing a defendant accused of a [_____] (e.g. Class A)] felony, as defined in [relevant local statute], must have served at least two years as a prosecutor, a public defender, or assigned counsel within a formal assigned counsel plan that included training, or have demonstrably similar experience, and been trial counsel and handled a significant portion of the trial in 5 felony cases that have been submitted to a jury.”

One of the characteristics of an effective system is the definition of qualifications for attorneys providing indigent defense. The contracts should be modified to provide specific requirements regarding the qualifications of attorneys providing indigent defense for the various types of caseloads handled by these attorneys.

(2) The Contracts Should Include Provisions Requiring Ongoing Annual Training for the Attorneys Providing Indigent Defense.

For example, NLADA suggested the following provisions regarding training – “Ongoing professional training is a necessity in order for an attorney to keep abreast of changes and developments in the law and assure continued rendering of competent assistance of counsel. The Agency shall provide sufficient training, whether in-house or through a qualified provider of CLE, to keep all of its attorneys who perform work under this Contract abreast of developments in relevant law, procedure, and court rules. If an attorney is transferred to a particular type of case (e.g. a Capital case or other Complex litigation) after having participated in the required seven hours of annual CLE required in Section V.A, the Agency shall require additional training in the particular type of case, as necessary.”

The contracts should be modified to provide minimum definitions of the amount of training that each attorney should take annually, as well as requirements for reporting this training to the County Administrator’s Office. The State Bar of California requires

twenty-five hours of continuing education annually. The attorneys providing indigent defense services on behalf of the County maintain records pertaining to this requirement. Copies of these records should be provided to the County as these attorneys complete their training.

(3) The Role of the Review Panel and the Executive Committee Should Be Consolidated into a Policy Board in the Contracts.

The role of this policy board should in some respects be the same as the review panel and the executive committee in the current contract. In other words, it should be more of an oversight body.

The duties should include the following:

- Monitoring the quality, accountability, contract compliance of the attorneys providing indigent defense;
- Approval of replacement or additional attorneys to provide indigent defense;
- Development and monitoring of the implementation of policies and guidelines for the internal management and operation of the consortium (i.e., attorney assignments, review of attorney performance requirements, etc.).
- Development and monitoring of the implementation of a complaint procedure and process on behalf of clients of indigent defense services provided by these attorneys under contract with the County;

The policy board would not have a role in the assignment of attorneys within the consortium with the exception that of the development of guidelines to ensure these attorneys are qualified for their assignments and are in compliance with contract requirements and guidelines. The executive director for the consortium would make the assignments.

The members of the policy board should include a representative of the County Administrator's Office, the Presiding Judge for the Butte County Superior Court (or

his/her designee), and a representative for the attorneys providing indigent defense as executive director of the consortium. This committee should meet at least semi-annually. The County Administrator's Office should take the lead in scheduling and the development of an agenda for these meetings. However, the role of the County Administrator's Office should be more that of staff support, the assistance and facilitation in the development of policies, etc.

(4) The Contracts Should Include Procedures for the Supervision and Evaluation of the Performance of the Attorneys Providing Indigent Defense Services.

Independent oversight and monitoring is an indicator of an effective indigent defense system. This independent oversight and monitoring is not being effectively provided under the terms of the present contracts.

The contracts with these attorneys should be modified to include a procedure for the systematic evaluation and monitoring of the performance of the attorneys providing indigent defense services. The policy board should provide this evaluation.

The executive director for the consortium of attorneys providing indigent defense services would continue to provide ongoing supervision.

The County Administrator's Office should facilitate that evaluation by the policy board through the review of variances among attorneys in pleadings, continuances, complaints from clients, etc. and the reporting of this performance to the policy board.

An essential tool for the evaluation of the attorneys is accurate and timely data concerning their caseload. However, the caseload tracking mechanisms currently in place will not facilitate this evaluation. As noted later in this report, the County should develop a caseload management information system to provide this data.

(5) The Contracts Should Require That the Attorneys Provide Proof That Legal Secretarial Support Is Being Utilized.

At present, the contract specifies that the “attorney shall provide personnel ancillary to the furnishing of legal services, office space, and all materials, equipment, facilities and supplies necessary for the support of such personnel in the performance of the legal services under this contract.”

However, the extent of legal secretary support that the attorneys obtain is unclear. In one instance, it does not appear that one of the attorneys providing indigent defense services has retained such legal secretary support.

The Butte County Superior Court has provided funding in the amount of \$68,400 annually to provide half-time legal secretary support for each of three attorneys providing indigent defense services for juvenile dependency petitions (Welfare and Institution Code 300). The Court requires proof of these services before it reimburses these attorneys.

The County should modify the contracts to specifically require the provision of these legal secretary services on an ongoing basis in the amount of not less than 8 to 12 hours weekly. The County should require proof of these services (e.g., payroll stubs).

(6) The County Should Not Include Payment for Participation in an Executive Committee within these Contracts, But Should Continue a Modified Role of An Executive Director.

The County is presently compensating three attorneys \$48,709 annually for their participation in an executive committee. In addition, the attorney assigned as executive director also receives an additional \$22,731 (or 18% of base salary) for being the executive director for the Indigent Services Consortium. Total costs for the executive director and the executive committee amounts to \$71,440 annually. However, the

executive committee does not appear to be an effective vehicle for managing the contracts with these attorneys each functioning as an independent contractor, and does not appear to be accomplishing its purpose.

The role of the executive committee is recommended to be included in the previously mentioned policy board. One of the attorneys providing indigent defense for the County should participate in that policy board as an executive director and be compensated at a 10% to 15% incentive within the attorney's contract as executive director (or \$12,300 to \$18,500 annually).

One of the attorneys within the consortium should continue in a role as executive director, albeit modified from the present role. This executive director should provide ongoing supervision of these attorneys, ongoing interaction with the Judges and the administrative staff of the court, and the duties involved in addressing criminal justice issues with the District Attorney, the Sheriff, the various Police Chiefs in the County, and the Chief Probation Officer. Other responsibilities should no longer be assigned to the executive director and the executive committee such as the contract management duties (i.e., management of the contracts with the investigators, claims for services, etc.). The workload carried by the executive director may need to be reduced to some extent to enable this attorney to fulfill this role effectively.

As will be suggested later in this chapter, the County should retain staff to assist the County Administrator's Office in the administration of this contract in lieu of this executive committee. This position should be utilized to assist the County in the administration of these independent contractors. The addition of this position is designed to assure the effective management of these contracts, the management of

the investigative contracts, and assist the policy board in the development of policies and procedures related to these contracts.

(7) The Standards for Provision of Indigent Defense Services within the Contract Should Be Expanded.

One of the additional standards pertains to client contact requirements. These requirements should suggest the timeliness with which an attorney should contact the in-custody clients and out-of-custody clients. Possible requirements are presented below.

- **In-Custody Initial Interviews.** Contractor shall speak to and conduct initial interviews in person with in-custody clients:
 - Within 24 hours of receipt of notice of appointment; or
 - By the next working day if the court appoints Contractor on a Friday, weekend, or holiday.
- **Out-of-Custody Interviews.** Within 72 hours of the receipt by the attorney of the notification of appointment, Contractor shall arrange for contact with out-of-custody clients, including notification of a scheduled interview time or what client must do to schedule an interview time.

The contracts should also contain other performance guidelines such as the extent of continuances, what a client should be able to expect from the attorneys providing indigent representation, etc.

The contracts should also be modified to specify vertical representation. These requirements could state “continuity of representation at all stages of a case, sometimes referred to as “vertical” representation, promotes efficiency, thoroughness of representation, and positive attorney/client relations. The contractor agrees to make reasonable efforts to continue the initial attorney assigned to a client throughout all cases assigned in this contract. Nothing in this section shall prohibit the contractor from

making necessary changes or attorney rotations at reasonable intervals, or from assigning a single attorney to handle an aspect of legal proceedings for all clients where such method of assignment is in the best interest of the eligible clients affected by such method of assignment.”

The contract should be modified to specify the range of services expected of the contractor. This range of services could include the following: “contractor shall provide services on any and all matters necessary to provide adequate representation of the indigent, including but not limited to:

- Being present at regularly scheduled arraignments or other initial appearance to make the necessary contact and appointments with clients assigned to Contractor;
- Filing all necessary motions, including pre- and post-judgment motions;
- Representation through judgment or other final order of the court on the case, including but not limited to:
 - Filing timely motions to dismiss in cases subject to diversion agreements, conditional discharge or similar provisions,
 - Filing necessary paperwork, and
 - All pre-judgment proceedings arising from a petition for a writ of mandamus or habeas corpus related to the case on which counsel was appointed;
- Preparing all documents, letters, research and referrals to appropriate agencies;
- Continuous legal and support staff services, during case substitutions, to the extent necessary to ensure continuous representation and the establishment of the new attorney/client relationship;
- Consulting with clients regarding appellate review; and
- Upon request, assisting in filing a notice of appeal and motion for appointment of appellate counsel and timely responding to appellate counsel's questionnaire or questions regarding the case;

It would be desirable to include other features within the contract. These include such features as caseload guidelines and case management systems. However, the County is not in a position to develop these features given the absence of reliable caseload data and the absence of the necessary automated information systems. These issues are addressed in the next portion of the chapter.

2. THE COUNTY SHOULD ENHANCE THE MANAGEMENT OF ITS CONTRACTS WITH ATTORNEYS PROVIDING INDIGENT DEFENSE SERVICES.

There are seventeen different attorneys providing indigent defense services on behalf of the County or the Court. Each of these attorneys is an independent contractor. The County should improve the management of these contracts. Improved management requires that the County have the staff resources to manage the contract, and that it utilize those staff resources to proactively manage these contracts. These steps are discussed below.

(1) The County Should Add a Contract Manager to Assist the County Administrator's Office in Managing the Contracts for the Provision of Indigent Defense Services.

Altogether, the County and the Court are paying approximately \$2.5 million annually for indigent defense services. As has been suggested previously, the County and the Court appear to be receiving good value for these expenditures relative to what their peer counties are paying for similar services. However, there still remain opportunities to improve the management of this contract. This requires the addition of resources not presently available in the County Administrator's Office.

As noted in the previous section of this chapter, it is recommended that the compensation for the three attorneys serving on the executive committee not be

continued into the next contract, and that the role of the executive director be modified. The cost to the County for the executive committee is \$48,709 annually. With the modification of the role of the executive director, the cost to the County of an executive director would be reduced to a range of \$12,300 to \$18,500 annually (or \$4,200 to \$10,300 less on an annual basis). The annual savings to the County would approximate \$52,900 to \$59,000 annually.

The County should utilize these funds to offset most of the costs associated with the addition of a Contract Manager to administer these contracts, to facilitate the meetings of the policy board, to facilitate the evaluation of the performance of these attorneys by the policy board, to manage the contracts with the investigators, to process claims for services, and to address the contract management issues noted in this chapter.

The cost of the Contract Manager, at first step, would approximate \$69,600 at first step in salaries and fringe benefits. The addition of this position would result in a net cost increase of approximately \$11,000 to \$17,100 annually. In addition, the cost of furniture for this position would approximate \$3,500 in one-time capital outlay (assuming office system furniture and not a private office).

(2) The County Should Develop Case Management Information System for Tracking Indigent Defense Caseload.

The system utilized by the attorneys providing indigent defense in Butte County is a paper-based system that these attorneys use to manage case files, which makes assessment of caseload and case status difficult and time-consuming. It is recommended that the County develop a simple automated case management information system. The attorneys providing indigent defense services would access the

system via routers or modems to a central server located at the County Administrative Building.

The system should be designed to track workload of the attorneys.

This system should have the ability to partition databases or utilize multiple databases so that support staff for an attorney providing indigent defense cannot access the client information for another attorney also providing indigent defense.

(3) The County Should Develop a Common Definition of a Case for Use by Indigent Defense Attorneys in Reporting Their Caseload in Monthly Reports.

Before the County can begin the task of developing caseload guidelines, it first needs to reach agreement on the definition of what a case is. The National Center for State Courts and the Conference of State Court Administrators, in *State Court Model Statistical Dictionary, 1989*, instruct court administrators to count “each defendant and all charges involved in a single incident as a single case.” In developing its standards, the National Advisory Commission (NAC) defined a case as “a single charge or set of charges concerning a defendant (or other client) in one court in one proceeding.” In addition, the definition should clarify that one defendant with multiple counts arising from the same incident equals one case. This equates to a definition in which multiple defendants with any number of counts arising from the same incident equals multiple cases (e.g.: three co-defendants who jointly carjacked a car and kidnapped and beat its occupant would equate to three cases since there would be three separate public defenders on the "case" anyway).

In the definition of a case, it is important for the indigent defense attorneys, the Courts, and the District Attorneys Office to also use the same definition. This affords the

greatest opportunity to develop and approve budget requests using a common definition of workload.

In defining a case, the County should clarify how the attorneys providing indigent defense should count probation violations. Probation violations should not be counted as new cases unless a new violation is being prosecuted as a separate charge.

(4) The County Administrator's Office Should Develop a Written Procedure for Reporting Caseload by Attorneys Providing Indigent Defense.

In reviewing the monthly reports submitted by the indigent defense attorneys, it was clear that different report formats were being utilized and that different definitions of a case were also being utilized. Some reports noted merely the number of cases, while others noted the number of cases and the number of defendants.

The County Administrator's Office should work with the Executive Director, before the end of the current contract, to develop a written procedure, including a common set of definitions and forms, for the reporting of their monthly caseload.

(5) The County Should Develop Caseload Guidelines for Indigent Defense Services.

By a number of measures, it would appear that the caseload of the attorneys providing indigent defense is comparable to other counties. For example, the ratio of district attorneys to indigent defense attorneys in Butte County is comparable to other counties that have public defender's offices. In addition, the ratio of felony and misdemeanor filings per attorney in Butte County is comparable to other counties, when these other counties are adjusted for conflict cases.

The County, however, needs to develop caseload guidelines for indigent defense.

The definition of these guidelines will be problematic given the lack of reliable caseload data provided by the indigent defense attorneys. However, the County should specify a maximum allowable caseload and then utilize the proposed case management system to identify the extent to which these attorneys meet these standards. The guidelines should clearly state that the actual number of cases assigned under the contract will vary from time to time.

A great deal of work has already been done to develop caseload guidelines. These include such efforts as the following:

- The National Advisory Commission published guidelines in 1973. These guidelines have served as a benchmark for other entities.
- Case weighting studies have been developed by a number of agencies such as the Colorado state public defender in 1996. These weighted caseload guidelines have been accepted by the Colorado legislature.
- A number of other states have developed their own guidelines such as the State of Indiana. At least fourteen states have developed such guidelines.

These efforts can provide guidance to the County as it develops guidelines for caseload for indigent defense.

3. THE COUNTY SHOULD ASSESS THE EXTENT OF INVESTIGATIVE RESOURCES PROVIDED FOR INDIGENT DEFENSE ATTORNEYS.

In the current contract for indigent defense services, ten investigators, operating as independent contractors under contract with Attorney "C", provide investigative services. These investigators are each compensated at the sum of \$2,626.49 per month. These investigators are not full-time: each investigator works no more than twenty hours per week although the contract indicates that their payment will be irrespective of the amount of time the investigator spends on services. Each of the eight attorneys assigned to the criminal courts is assigned an investigator. The other two

investigators are assigned to the attorneys assigned to misdemeanors and Welfare and Institutions Code Section 602. Total expenses for investigative services amount to \$318,461 in 2002-03 (including encumbrances) and \$337,920 in 2001-02 (including encumbrances). This cost is in addition to those costs incurred by the County for providing indigent defense services.

The expenditures for investigators exceed those of other counties that provide in-house public defender services that were surveyed by the Matrix Consulting Group as part of this analysis. This survey indicates that a range of approximately 0.13 investigator per attorney to 0.18 investigator per attorney would be appropriate. This range would indicate that approximately 2.1 to 3.0 investigators would be appropriate for Butte County. The cost of this 2.1 to 3.0 investigators would approximate \$144,000 to \$205,000 annually. This compares to the current cost of investigative services paid by the County of \$337,920. The County appears to be paying \$132,920 to \$193,920 more for investigative services than the pattern in these other counties would suggest is appropriate. The consortium indicated that any effort to share investigators among these attorneys would be unmanageable, impractical from the perspective of conflicts of interest among the different attorneys, and more costly in the long run as it would increase the number of continuances. The consortium also indicated that the lack of settlement conferences in Butte County generates higher investigative costs.

The Matrix Consulting Group recommends that the County assess the level of investigative services in other counties and identify the approaches utilized in these other counties to handle sharing of investigators and possible conflicts of interest

among the various attorneys in sharing investigators. The Matrix Consulting Group believes this is an opportunity for the County to enhance the efficiency of their system.

4. THE BUTTE COUNTY SUPERIOR COURT SHOULD ASSUME RESPONSIBILITY FOR FUNDING AND CONTRACTUAL MANAGEMENT OF ALL THREE ATTORNEYS PROVIDING INDIGENT DENSE FOR W & I 300.

At present, the Butte County Superior Court contracts directly with one attorney providing indigent defense provide indigent defense services for juvenile dependency petitions pursuant to Welfare and Institutions Code Section 300. The Court is responsible for funding this contract and provides contract management. At the same time, the County funds and provides contract management for two other attorneys that also provide indigent defense services for juvenile dependency petitions pursuant to Welfare and Institutions Code Section 300.

The Butte County Superior Court should assume responsibility for funding and contract management for all three attorneys providing indigent defense services for juvenile dependency petitions pursuant to Welfare and Institutions Code Section 300.

5. THE BUTTE COUNTY SUPERIOR COURT SHOULD CONFIRM FINANCIAL ELIGIBILITY BEFORE A CLIENT IS ASSIGNED INDIGENT DEFENSE.

While the Court presently obtains information from applicants for indigent defense services prior to representation, it does not verify this information. The experience of the Matrix Consulting Group is that the majority of courts verify all or many applications for indigent defense. Applicants should be informed prior to their initial court appearance to bring documentation of income, bills, and assets when they apply for indigent defense services.

The Butte County Superior Court has expressed concern regarding their ability to provide this service with existing staffing. The County Administrator's Office and the

Superior Court should discuss this recommended change. This discussion should include the collections process, cost recovery goals, the levels of staffing allocated to the Court Compliance Division and the roles of this staff, and the funding provided by the County to the Court for the provision of these services under the terms of the agreement adopted on July 1, 2000, by the Butte County Superior Court and Butte County.